

Utah State Tax Commission
Motor Vehicle Enforcement Division



Question & Answer Booklet

September 2010 Edition

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For a complete listing of Utah Tax Codes visit the State Tax Commission's website at www.tax.utah.gov

**Title 41, Chapter 3 and Effective Rules 877-23V for Motor Vehicle Enforcement
Title 41, Chapter 1 and Effective Rules 873-22M for Department of Motor Vehicle
Title 13, Chapter 14 for Department of Commerce and Trade, New Automobile Franchise Act**

MOTOR VEHICLE BUSINESS LICENSES

Anyone who wishes to sell, display for sale, offer for sale, exchange, manufacture, distribute, transport, dismantle, or crush motor vehicles, acts as a salesperson for a dealer, acts as a distributor or factory representative or operate a body shop must obtain one of the following licenses from MVED:

- **New motor vehicles dealer's license:** allows the dealer to sell and dismantle new and used motor vehicles, motorcycles, snowmobiles, off highway vehicles, trailers (regardless of unladen weight), and operate a body shop.
- **Used motor vehicle dealer's license:** allows the dealer to sell and dismantle used motor vehicles, motorcycles, snowmobiles, off highway vehicles, trailers (regardless of unladen weight), and operate a body shop.
- **New motorcycle and small trailer dealer license:** allows the dealer to sell and dismantle new and used motorcycles, snowmobiles, off highway vehicles and small trailers (750 to 1999 lbs unladen weight).
- **Used motorcycle and small trailer dealer license:** allows the dealer to sell and dismantle used motorcycles, snowmobiles, off highway vehicles and small trailers (750 to 1999 lbs unladen weight).
- **Motor vehicle manufacturer's or remanufacturer's license:** allows the licensee to manufacture or remanufacture motor vehicles subject to registration under the Motor Vehicle Act. Manufacturers must issue and install vehicle identification numbers. Manufacturers may, after notifying the department, authorize dealers to sell their product.
- **Motor vehicle transporter's license:** Licensed transporters are allowed to transport motor vehicles from a manufacturing, assembling, or distribution point to dealers or distributors, to or from detail or repair shops, and to financial institutions and storage areas from points of repossession.
- **Salvage Buyer License:** allows the licensee to bid on or purchase a vehicle with a salvage certificate at any motor vehicle auction. A Salvage Buyer License is no longer required for out of state businesses to purchase salvage in Utah.
- **Dismantler's license:** allows the licensee to dismantle motor vehicles for resale of parts, for salvage, or for selling vehicles to a crusher or another dismantler.

- **Distributor, factory branch, or distributor branch license:** allows an out of state company to sell and distribute new motor vehicles and parts to their authorized dealers.
- **Representative's license:** allows an individual to act as a representative of a distributor, factory branch, or distributor branch.
- **Salesperson's license:** allows an individual to act as a salesperson for a new or used motor vehicle dealer or new or used motorcycle or small trailer dealer.
- **Salvage Buyer license:** allows an individual to purchase salvage vehicles on behalf of a dealer, body shop, or dismantler at a salvage auction.
- **Body Shop license:** allows the licensee to act as a body shop.
- **Crusher's license:** allows the licensee to crush or shred motor vehicles to reduce the materials to a more compact size for recycling.

QUESTIONS AND ANSWERS

- Q. What should I do with the license certificate and pocket card I receive from MVED?
- A. Display the license conspicuously in the place of business. Carry the pocket card with you when working for the business or driving one of its vehicles (41-3-203 UCA).
- Q. How do I obtain a motor vehicle business license?
- A. Contact the Motor Vehicle Enforcement Division, 210 North 1950 West Salt Lake City, Utah 84134, (801) 297-2600 or visit our website at www.mved.utah.gov for instructions and forms.
- Q. How long does it take to get the license after I apply?
- A. After the division receives the application forms, bond, etc., allow about five to ten working days for inspection of the place of business and license approval. If there is a problem with the application or the place of business, it will have to be resolved before a license is issued.
- Q. How long is the license good for once it is issued?
- A. All MVED licenses expire June 30th of each year. No matter when you obtain the license, it will expire at midnight, on June 30th. The license fee is not pro-rated. (41-3-206 UCA)
- Q. Once I have a license, will it automatically be renewed if I submit a renewal application and fee?
- A. Yes, unless the license has been revoked or suspended (41-3-206 UCA).

- Q. Is my salesperson's license good for any dealer for whom I happen to be working?
- A. No. A salesperson's license is only good for the dealer for whom it was originally issued and unless transferred, expires when the salesperson is terminated or quits the original dealer.

Q. What is a motor vehicle?

- A. A motor vehicle is a vehicle intended primarily for use on the public highways which is self-propelled, or a vehicle which is not self-propelled but is intended for use on the public highways and is designed to be attached to or drawn by a self-propelled vehicle. This includes motor homes but not farm machinery, construction machinery or manufactured housing (mobile homes). (41-3-102 UCA)

Q. What is a new motor vehicle?

- A. A new motor vehicle is one that has never been registered or titled and that has been driven less than 7,500 miles. The mileage limit does not apply to trailers or mobile homes (41-3-102 UCA). A new dealer must be franchised by the manufacturer to sell their make/model of vehicle.

Q. What is a used motor vehicle?

- A. Any motor vehicle other than a new one (41-3-102 UCA.).

Q. What is a small trailer?

- A. A small trailer is a vehicle intended for use on the public highways which is not self-propelled, but which is designed to be attached to or drawn by a motor vehicle, and which has an unladen weight of less than 2,000 pounds (41-3-102 UCA).

Q. What records must a licensee keep on file and for how long?

- A. The licensee shall maintain and make available for inspection by peace officers and employees of the division: a record of every motor vehicle bought, or exchanged by the licensee or received or accepted by the licensee for sale or exchange; a record of every used part or used accessory bought or otherwise acquired; a record of every motor vehicle bought or otherwise acquired and wrecked or dismantled by the licensee; all buyers' orders, contracts odometer statements, temporary permit records, financing records, and all other documents related to the purchase, sale or consignment of motor vehicles; and a record of the name and address of the person to whom any motor vehicle or motor vehicle body, chassis or motor vehicle engine is sold or otherwise disposed of and a description of the motor vehicle by year, make and vehicle identification number. The records shall be kept by the licensee for at least five years. (41-3-210 UCA)

Q. Does everyone who sells, displays for sale, offers for sale or exchanges more than two motor

vehicles a year have to be licensed as a dealer?

A. No. An insurance company, bank, finance company, public utility company, State Tax Commission impound yard, federal or state governmental agency, or any other person coming into possession of motor vehicles as a part of his/her regular business, who sells the vehicles under contractual rights he/she may have regarding them, is not considered a motor vehicle dealer. Leasing companies and pawn shops are specifically not exempted under this provision. Anyone who sells or exchanges only those vehicles he has owned for more than 12 months will not be considered a motor vehicle dealer (41-3-103 UCA).

Q. I am a leasing company and my primary business is not selling vehicles. Do I need a dealer's license?

A. Possibly. If you sell, display for sale, offer for sale or exchange during any 12 month period three or more vehicles you have owned for less than 12 months, you need to be a licensed dealer (41-3-103 UCA).

Q. Does a manufacturer's, remanufacturer's, or distributor's license permit the licensee to sell motor vehicles at retail?

A. No. Sales made at retail require a dealer's license (41-3-102, UCA).

Q. What forms of payment will MVED accept?

A. Cash, check or money order.

Q. To whom should I make the checks and money orders out?

A. Utah State Tax Commission

Q. What if a licensee loses or misplaces his license certificate or pocket card?

A. MVED will provide a duplicate copy, free of charge, as long as the license is still valid.

Q. Does a licensee need to notify MVED if his/her address, ownership, name or anything else that may affect his/her license changes?

A. Yes (R873-23V-11B).

Q. Is the information contained in a license application confidential?

A. No. With certain restrictions, each license issued by MVED is public information and will be given out upon request. The following information is contained in the file:

Business name

Address of principal and additional places of business

Business phone number
License number and type
Franchises held
Dates license was issued, suspended, revoked, and/or expired
Bond company and number
Dates bond was issued and/or cancelled
Owners' names, phone numbers and addresses (administrator may restrict)

BONDS

Dealers, Body Shops and Crushers must file with MVED a corporate surety bond from a bonding company with a B+ or better rating from the A.M. Best Company, which must remain in effect as long as the dealer, crusher or body shop is in business.

New or used motor vehicle dealers	\$75,000	*used motor vehicle dealers must also maintain a \$75,000 bond for each additional place of business.
Motorcycle or small trailer dealers	\$10,000	
Body Shops	\$20,000	
Crushers	\$10,000	

QUESTIONS AND ANSWERS

Q. Who can come to MVED and get a copy of my bond?

A. Anyone.

Q. What does a dealer bond cover?

A. Loss suffered by reason of fraud or fraudulent representations made or by violating subsection 41-3-301(1) which requires a dealer to submit or deliver a certificate of title or manufacturers certificate of origin, or by violating subsection 41-3-402(1) which requires payoff of liens on motor vehicles traded in.

Q. How should someone with a complaint make a claim on a bond?

A. He/she should contact an attorney, who will know what legal procedures to follow. A complaint must be filed with MVED within one year after the cause of the complaint occurs, and any court action must commence within two years after that (41-3-404 UCA).

Q. I am a dealer and my bond is being cancelled next week. I forgot to get a new one, and now I won't be able to have a new bond on file before the old one will lapse. Can I post a cash bond or keep operating until the new bond is on file?

A. No. It is illegal to operate as a dealer without a current corporate surety dealer bond on file with MVED (41-3-205 UCA).

Q. My dealer bond is being cancelled and I cannot find a company who will write me a new

one. Does MVED have a list of companies I can contact for a new bond?

A. Yes. A list is available upon request. You can also check out insurance companies and their ratings online at www.ambest.com

Q. How do I know if a bonding company is rated B+ or better?

A. Most bonding agents will know what the company has been rated. Also, you may call MVED to find out a rating of a bonding company. You can also view the bonding company ratings at www.ambest.com

TRAINING

All applicants for a dealer license must attend an eight-hour orientation course. In order to renew a dealer license, the dealership must complete a three-hour training class each year. The training is required for all types of dealer licenses as of July 1, 2008.

QUESTIONS AND ANSWERS

Q. What is taught in the eight-hour orientation class?

A. The class includes in-depth information on motor vehicle laws and rules.

Q. Who has to attend the eight-hour orientation class?

A. The class has to be completed by all of the owner(s), partners, corporate officers, bond indemnifiers and managers (41-3-201 UCA).

Q. Who provides the class and how much does it cost?

A. A list of providers of the training class can be obtained from MVED by calling (801) 297-2600. The providers set the fees for the class.

Q. Who pays for the cost of the training courses?

A. The applicant for the dealer's license pays all fees associated with taking the training course.

Q. Who has to attend the three-hour training course?

A. Anyone representing the motor vehicle dealership (41-3-206 UCA).

Q. What is taught in the three-hour training course?

A. The class covers motor vehicle laws and rules and any changes in legislation.

Q. Do I have to attend or send someone to the three-hour training course every year to renew

our dealers license?

A. Yes (41-3-206 UCA).

FEES

The fees for licenses issued by MVED are as follows:

New Motor Vehicle Dealer	\$127.00
Used Motor Vehicle Dealer	\$127.00
Motor Vehicle Body Shop	\$112.00
Motor Vehicle Manufacturer	\$102.00
Motor Vehicle Remanufacturer	\$102.00
Motor Vehicle Dismantler	\$102.00
Motor Vehicle Crusher	\$102.00
Motor Vehicle Transporter	\$ 51.00
New Motorcycle or Small Trailer Dealer	\$ 51.00
Used Motorcycle or Small Trailer Dealer	\$ 51.00
Distributor License	\$ 61.00
Distributor Representative	\$ 26.00
Original & Renewal of Salesperson's License	\$ 31.00
Transfer of Salespersons' License	\$ 5.00
Fingerprint Fee	\$25.00
Salvage Buyer	\$203.00
Dealer Plates	\$ 12.00*
Renewal of Dealer Plates	\$ 10.50
Dismantler, Transporter & Manufacturer Plates	\$ 10.00*
Renewal of Dismantler, Transporter & Manufacturer Plates	\$ 8.50
Additional Place of Business/Offsite License	\$26.00
*Handling fee on any plate order, fee varies	\$2.50 – 3.50

PLACES OF BUSINESS

Every dealer, dismantler, body shop, transporter, crusher, manufacturer and remanufacturer must have a principal place of business in Utah which complies with all local ordinances, including zoning, and which is devoted exclusively to the manufacturing, repair, sale, or dismantling of motor vehicles and business incidental thereto. The licensee must conduct the principal portion of his business from this location and must also keep his business records there. There must be enough display space for at least three vehicles. There must be a permanent, enclosed building large enough to contain the office of the dealership, and this office must include a safe place in which to keep the business records. The entire operation must be surrounded by a fence, chain, or posts, or otherwise marked to definitely indicate its boundaries. The principal place of business must not share any common area with another dealer, auction, dismantler, or manufacturer or any other activity not directly related to motor vehicle commerce. An MVED officer will make an inspection of the principal place of business five to ten working days after the department receives each license application. The license cannot be issued until after this

inspection.

The principal places of business by dealers, manufacturers, transporters, body shops, crushers and dismantlers will need to be identified by a permanent sign, at least 24 square feet in size, which must be either painted on the office, attached to the office with nails or bolts, or placed in the display yard on posts which have been securely anchored in the ground. The sign must show the full name of the business as it is licensed with MVED. The dealer, dismantler, body shop, crusher or manufacturer number must also be displayed either on the sign or on the building.

QUESTIONS AND ANSWERS

Q. Can a licensee maintain places of business in addition to the principal one?

A. Yes, if he notifies MVED and submits an application for an additional place of business. All places of business will need to be inspected. Additional places of business must have a sign similar to the one required for a principal place of business. The sign for an additional place of business must also show the address of the principal place of business and the business number. (R873-23V-8). *Please see next question for used motor vehicle dealers.

Q. Can a used motor vehicle dealer maintain places of business in addition to the principal one?

A. Yes. However a used motor vehicle dealer additional place of business must meet the same requirements as their principal place including building, sign and display area. The dealer must also maintain a \$75,000 bond for each additional place of business.

Q. Can a dealer offer motor vehicles for sale at his home or any other place not licensed as a place of business?

A. No (41-3-210 UCA).

Q. What if the address of a place of business changes?

A. The license holder must notify MVED immediately and fill out a change of address application (R873-23V-11). A photo of the business sign will also be required and possibly a bond rider. Contact MVED at 801-297-2600.

Q. A local credit union wants my dealership to spend a Saturday afternoon selling vehicles from its parking lot. Is that legal?

A. Yes, if your dealership obtains a license for an offsite sale. Only licensed salespersons may represent the dealership in the purchase and sale of vehicles. Credit union staff can only assist in the financing. A TC-758 form must be submitted with a picture of the sign to be used at the sale along with the required fee.

Q. A bunch of dealers in my area want to get together and hold a special sale in the parking lot of the local shopping mall. Is that legal?

- A. Yes, if each dealer obtains an offsite sale license, puts up their own sign, and keeps their display space separate from those of other dealers.
- Q. Do dealers' or dismantlers' vehicles used to transport salvage or salvage parts need to be identified?
- A. Yes. In addition to the requirements of other agencies, the vehicles need to be identified with the business name, address, and license number. Identification information must be displayed on both sides of the vehicle or equipment in characters at least 2 inches high (R873-23V-8).

FRANCHISES

QUESTIONS AND ANSWERS

- Q. What happens if a new vehicle dealer loses, adds, or cancels a franchise?
- A. If a dealer adds or changes a franchise, they must notify MVED and submit a new franchise verification. If a dealer loses or cancels all new vehicle franchises, they must return their license and may be re-licensed as a used vehicle dealer. The dealer will be allowed six months to sell or license and title the new vehicles which they had in their possession at the time of relicensing (41-3-207 UCA).
- Q. I have heard that there is a law that prohibits used car dealers from selling new cars; is that true?
- A. Yes. Anyone selling a new motor vehicle must have a franchise for every make of new motor vehicle for sale and a new motor vehicle dealer's license (41-3-210 UCA).
- Q. Can a new car dealer sell a new vehicle to a used car dealer?
- A. Only if the vehicle is then licensed and titled in the used car dealer's name (41-3-210 UCA).
- Q. I am a used car dealer and last week I purchased a current model car at an out-of-state auto auction. I just received the title, only it is a Manufacturer's Certificate of Origin (M.C.O. or M.S.O.) What do I do now, to avoid breaking a franchise law?
- A. If the vehicle has been driven less than 7,500 miles you must title and register the vehicle in your dealership name. After it has been titled and registered, it becomes a used motor vehicle.
- Q. I am a franchised Ford dealer and I regularly do dealer trades with another Utah Ford dealer. I also have a Toyota franchise, but the other Ford dealer does not. Today he called and wants me to sell him some of my new Toyotas. Is that legal?
- A. Yes, but only if you license and title the new Toyotas in the dealership's name (41-3-210

UCA).

Q. As a franchised new car dealer, I do a lot of business with a leasing company that operates out of some of the local credit unions. Whenever they buy a car from me I do the license and title work showing the leasing company as the owner and their customer as the lessee. Recently, they have been pressuring me to license the cars showing the name of their customer as the owner and no lessee. Can I do that?

A. No (41-3-210 UCA).

Q. Can a custom van dealer advertise and sell his vans by the chassis make?

A. Yes, if the dealer possesses a franchise from the chassis manufacturer (41-3-210 UCA).

SALESPERSONS

Anyone who, for salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, or who acts as an auctioneer for an auto auction, must be licensed as a motor vehicle salesperson. Salesperson's license certificates should be conspicuously displayed in their employers' places of business, and their pocket cards should be carried with them while they are at work.

For an individual to get a salesperson license, a recent personal photograph, completed fingerprint card and waiver must be submitted to MVED with the salesperson application. The following information will be on each salesperson's computer file at MVED and will be considered a public record:

Name

Address *

Phone *

Birth date *

Physical description *

Social security number *

Drivers license number *

Name and license number of employer

Dates license was issued, revoked, suspended, and/or expired

*(salesperson's address, phone, birth date, physical description, social security number and drivers license number may be restricted by the administrator)

QUESTIONS AND ANSWERS

Q. What is a no-fee salesperson?

A. A no-fee salesperson is an owner, partner or corporate officer in a dealership. They are authorized to sell motor vehicles without applying for a salesperson's license. There is no fee for this license, and it will be issued automatically unless the dealership requests otherwise.

- Q. How many no-fee salesperson licenses can each dealership have?
- A. One for each owner, partner or corporate officer.
- Q. Can an owner, partner or corporate officer who is a no-fee salesperson for his own dealership also hold a salesperson's license for someone else's dealership?
- A. No (R873-23V-3).
- Q. Can an owner, partner or corporate officer who holds such a position in more than one dealership have a no-fee salesperson's license for each dealership?
- A. Yes (R873-23V-3).
- Q. Does a no-fee salesperson have to turn in a photograph, fingerprint card and waiver?
- A. Yes (R877-23V-12).
- Q. Why do I have to do a fingerprint card/background check?
- A. Any individual that has been convicted of any violation of any law related to motor vehicle commerce, motor vehicle fraud, controlled substances, or a registerable sex offense cannot have a motor vehicle business or sales license (41-3- 209 UCA).
- Q. What is the waiver for?
- A. The waiver allows BCI to release criminal information to MVED.
- Q. What happens to a salesperson's license when his employment with a dealership ends?
- A. The dealer should return the salesperson's license to MVED. The salesperson license will be suspended. He is no longer authorized to act as a motor vehicle salesperson (41-3-208 UCA).
- Q. Can a dealer hire a salesperson on a trial basis before getting him or her a salesperson's license?
- A. No (41-3-210 UCA).
- Q. Can I hire someone other than a salesperson to buy vehicles for my dealership?
- A. No (41-3-102 UCA).
- Q. One of my salespersons wants to take vehicles home over the weekend and try to sell them. Is that legal?

A. No (41-3-210 UCA).

Q. I have a small dealership. Often I have to leave the lot and there are no salespersons present. Can I have my lot boy talk to customers while I am gone if I finish the deals when I return?

A. No. Only licensed salespersons are allowed to contact prospective customers for a dealer (41-3-210 UCA).

Q. Do salespersons have to post a bond in order to get a license?

A. No.

Q. I have been approached by someone who wants me to get him a salesperson's license and let him use my dealer number to buy and sell cars. I don't have to see the vehicles, display them, finance or pay for them, or bother with them at all, and he will send me \$100 for each one he sells. It sounds like a great deal to me, is it legal?

A. No. Besides all the risks you would be taking by letting someone you know nothing about use your dealer number, you would be selling vehicles from someplace other than a licensed place of business and assisting an unlicensed dealer (41-3-210 UCA).

Q. I have a salesperson who was previously licensed but expired 1 month ago, do they need to submit new fingerprints, waiver and a photo?

A. No. Fingerprints, waiver, and a photo do not need to be resubmitted until the license has been suspended or expired for 60 days or more.

VEHICLE FINANCING

When a dealer sells a new or used vehicle they must disclose in writing how the vehicle is to be financed. All retail purchase agreements must have printed on the face of the original the following language regarding financing. This section does not apply to wholesale sales to other dealers (41-3-401 UCA).

(1) (a) A dealer may not issue a temporary permit or release possession of a motor vehicle that the dealer has sold to someone other than another dealer unless the document of sale contains one of the disclosures listed in Subsection (2).

(b) The disclosures shall be set forth clearly and conspicuously on the first or front page of the sale document at the time of sale, executed by the purchaser, and for Subsection (2)(b), executed by the seller also.

(2) (a) The form to be used when financing is the purchaser's responsibility shall read as follows:

"THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT ACKNOWLEDGES THAT THE SELLER OF THE MOTOR VEHICLE HAS MADE NO PROMISES, WARRANTIES, OR REPRESENTATIONS REGARDING SELLER'S ABILITY TO OBTAIN FINANCING FOR THE PURCHASE OF THE MOTOR VEHICLE. FURTHERMORE, PURCHASER UNDERSTANDS THAT IF FINANCING IS NECESSARY

IN ORDER FOR THE PURCHASER TO COMPLETE THE PAYMENT TERMS OF THIS CONTRACT ALL THE FINANCING ARRANGEMENTS ARE THE SOLE RESPONSIBILITY OF THE PURCHASER.

(Signature of the purchaser)"

(b) The form to be used when the seller agrees to seek arrangements for financing shall read as follows:

"(1) THE PURCHASER OF THE MOTOR VEHICLE DESCRIBED IN THIS CONTRACT HAS EXECUTED THE CONTRACT IN RELIANCE UPON THE SELLER'S REPRESENTATION THAT THE SELLER CAN PROVIDE FINANCING ARRANGEMENTS FOR THE PURCHASE OF THE MOTOR VEHICLE. THE PRIMARY TERMS OF THE FINANCING ARE AS FOLLOWS:

INTEREST RATE BETWEEN _____ % AND _____ % PER ANNUM, TERM BETWEEN _____ MONTHS AND _____ MONTHS. MONTHLY PAYMENTS BETWEEN \$ _____ PER MONTH AND \$ _____ PER MONTH BASED ON A DOWN PAYMENT OF \$ _____.

(2) (a) IF SELLER IS NOT ABLE TO ARRANGE FINANCING WITHIN THE TERMS DISCLOSED, THEN SELLER MUST WITHIN SEVEN CALENDAR DAYS OF THE DATE OF SALE MAIL NOTICE TO THE PURCHASER THAT HE HAS NOT BEEN ABLE TO ARRANGE FINANCING.

(b) PURCHASER THEN HAS 14 DAYS FROM THE DATE OF SALE TO ELECT, IF PURCHASER CHOOSES, TO RESCIND THE CONTRACT OF SALE PURSUANT TO SECTION 41-3-401.

(c) IN ORDER TO RESCIND THE CONTRACT OF SALE, THE PURCHASER SHALL:

(i) RETURN TO SELLER THE MOTOR VEHICLE HE PURCHASED;

(ii) PAY THE SELLER AN AMOUNT EQUAL TO THE CURRENT STANDARD MILEAGE RATE FOR THE COST OF OPERATING A MOTOR VEHICLE ESTABLISHED BY THE FEDERAL INTERNAL REVENUE SERVICE FOR EACH MILE THE MOTOR VEHICLE HAS BEEN DRIVEN; AND

(iii) COMPENSATE SELLER FOR ANY PHYSICAL DAMAGE TO THE MOTOR VEHICLE.

(3) IN RETURN, SELLER SHALL GIVE BACK TO THE PURCHASER ALL PAYMENTS OR OTHER CONSIDERATION PAID BY THE PURCHASER, INCLUDING ANY DOWN PAYMENT AND ANY MOTOR VEHICLE TRADED IN.

(4) IF THE TRADE-IN HAS BEEN SOLD OR OTHERWISE DISPOSED OF BEFORE THE PURCHASER RESCINDS THE TRANSACTION, THEN THE SELLER SHALL RETURN TO THE PURCHASER A SUM EQUIVALENT TO THE ALLOWANCE TOWARD THE PURCHASE PRICE GIVEN BY THE SELLER FOR THE TRADE-IN, AS NOTED IN THE DOCUMENT OF SALE.

(5) IF PURCHASER DOES NOT ELECT TO RESCIND THE CONTRACT OF SALE AS PROVIDED IN SUBSECTION (2)(b) OF THIS FORM:

(a) THE PURCHASER IS RESPONSIBLE FOR ADHERENCE TO THE TERMS AND CONDITIONS OF THE CONTRACT OR RISKS BEING FOUND IN DEFAULT OF THE

TERMS AND CONDITIONS;

(b) THE TERMS AND CONDITIONS OF THE DISCLOSURES SET FORTH IN SECTION (1) OF THIS FORM ARE NOT BINDING ON THE SELLER; AND

(c) IF FINANCING IS NECESSARY FOR THE PURCHASER TO COMPLETE THE PAYMENT TERMS OF THE CONTRACT OF SALE, THE PURCHASER IS SOLELY RESPONSIBLE FOR MAKING ALL THE FINANCING ARRANGEMENTS.

(6) SIGNING THIS DISCLOSURE DOES NOT PROHIBIT THE PURCHASER FROM SEEKING HIS OWN FINANCING.

(Signature of the purchaser)

(Signature of the seller)"

QUESTIONS & ANSWERS:

Q. If a customer buys a car and pays cash can I leave the financial disclosure section blank?

A. No, the customer should sign section "1A" of the disclosure.

Q. What happens if the financial disclosure section on the purchase agreement is not filled out?

A. The entire contract of sale is null and void.

Q. If a dealer has agreed to obtain financing and this is done before the car is delivered, does the dealer still have to complete part "1B" of the financial disclosure section?

A. Yes.

Q. If financing has been arranged by the dealer and the exact terms are known can the dealer complete part "1B" of the financial disclosure by putting N/A in all of the terms part of the disclosure?

A. No, the exact terms must be entered in part "1B" of the disclosure and both the customer and the dealer must sign the disclosure.

Q. Can a dealer complete both section "1A" and "1B" of the financial disclosure?

A. No, only one section can be completed.

Q. If a dealer completes section "1B" but cannot get the vehicle financed because the bank charges more interest than agreed or the bank requires a co-signer, can the dealer require the customer to furnish a co-signor or pay the higher interest.

- A. No, the dealer must finance the vehicle within the terms of the agreement.
- Q. When a dealer fills out the financial disclosure in section "1B" and enters a low interest rate in the first portion of the interest disclosure but leaves the second portion blank can the dealer then force the customer to pay a higher interest rate?
- A. No, the dealer is bound to obtain financing at the interest rate shown in the disclosure and cannot demand a higher rate. In addition the dealer runs the risk of having the entire contract declared null and void for failure to complete the disclosure.
- Q. If a dealer over-allows on the trade-in, wholesales the trade-in for actual cash value and then has to rescind the sale, can the dealer pay the customer what he actually got for the trade-in vehicle?
- A. No, the dealer must refund the entire trade-in allowance.

PAYOFF OF LIENS ON MOTOR VEHICLES TRADED IN

If a dealer takes a trade-in from a retail customer as part of the sale of a motor vehicle and there is an outstanding loan balance owing on the trade-in. The dealer, within 21 calendar days of the date of sale, or within 15 days of receiving payment in full for the motor vehicle it sold, whichever date is earlier, shall remit payment to the lien holder sufficient to pay off the lien on the trade-in motor vehicle, unless the underlying contract of sale has been rescinded before expiration of the 21 days. (41-3-402 UCA). A dealer shall, at the time of sale of a motor vehicle with a trade in, notify in writing the person trading in the vehicle that the person remains responsible for any unpaid loan, lease or other obligation related to the vehicle being traded in. The dealer shall, within seven calendar days of the date of the trade-in notify a lienholder on the vehicle that the vehicle has been traded in.

QUESTIONS & ANSWERS

- Q. How long does the lien holder have to deliver title after the dealer pays off the lien?
- A. Nine calendar days after the day on which the funds are received if the lienholder has possession of the title for the motor vehicle and has been paid in full.
- Q. What obligation does the dealer have if the payoff is higher than what the dealer agreed to pay on the contract of sale?
- A. If the high payoff is the result of the dealer not paying the vehicle off within 21 days, the dealer is responsible for the additional amount. If the high payoff is the fault of the customer or a result of an error when the lien holder quoted the payoff, the additional amount due is the responsibility of the customer. If the trade-in vehicle has been resold the dealer may have to make the higher payoff to avoid a complaint from the purchaser for failure to deliver title and then take legal steps to obtain the additional amount owed from the customer who traded in the vehicle.

SALE OF THIRD-PARTY WARRANTIES OR SERVICE CONTRACTS

If a dealer sells a third-party warranty or service contract to the purchaser of a motor vehicle and collects a fee or premium from the customer, the dealer must pay the warranty or service contract company and ensure the warranty is in effect within 15 days of the date of sale (41-3-405).

Failure of a dealer to remit the fee within 15 days is grounds for dealer license suspension and allows the customer a cause of action against the dealer for damages that otherwise would have been covered by the warranty or service contract.

SALVAGE AND REBUILT-RESTORED VEHICLES

When a dealer comes into possession of a salvage or branded title vehicle, the dealer, before he negotiates for the sale of the vehicle, must give written notice to the customer and the prospective lien holder that a salvage certificate or a branded title has been issued for the vehicle (41-1a-1004). This written notice must be made on form TC-814. The dealer must also prominently display the form in the lower passenger-side corner of the windshield when the vehicle is displayed or offered for sale. Any dealer advertising must also disclose salvage or branded title information (see advertising rules page 29). This disclosure form TC-814 must be used by non-dealers as well. However, non-dealers do not need to place the form in the windshield while the vehicle is on display or being offered for sale.

QUESTIONS & ANSWERS

Q. What is a salvage or rebuilt-restored vehicle?

A. A salvage vehicle is a vehicle damaged by collision, flood, or other occurrence to the extent that the cost of repairing the vehicle for safe operation exceeds its fair market value; or a vehicle that has been declared a salvage vehicle by an insurer or other state or jurisdiction, but is not precluded from further registration and titling (41-1a-1001). A rebuilt - restored vehicle is a salvage vehicle that has been repaired and restored to operation.

Q. Can a salvage or branded title that has been issued to a motor vehicle that has little or no damage ever have the salvage title brand removed?

A. Yes, after July 1, 1992, if the vehicle received major damage to only one major component part or major damage to one component part and damage to a second component part which takes less than 10 hours to repair, the vehicle may be eligible for an unbranded title. The vehicle will require a before-repair inspection by an authorized inspector from MVED, and may require an interim- and after-repair inspection.

Q. Can a salvage vehicle that has already been repaired have the brand removed from the title?

A. No, if the vehicle has already been repaired or is a flood vehicle, it is not eligible to have the brand on the title removed.

Q. If a dealer buys a salvage vehicle from another state with a branded title, can the vehicle go

through the inspection procedure in Utah and have the brand removed?

- A. No, if the title is already branded by another state or jurisdiction it is not eligible to have the brand removed in Utah.

FOREIGN VEHICLES

Effective May 2003: A person may not knowingly sell or offer for sale in this state any vehicle that was initially delivered for disposition or sale in a country other than the United States of America unless, prior to the sale, the person provides written notice to the purchaser on a separate form furnished by MVED. The separate form is TC-353 must be completed by the purchaser and seller. This form may be obtained from the Tax Commission Warehouse by calling (801) 297-3878 or online at www.tax.utah.gov

- Q. If the dealer fails to disclose that the vehicle was not manufactured for the United States, is the dealer required to rescind the contract?

- A. No. A person who violates this section is guilty of a class B misdemeanor. In addition to any other penalties, a purchaser may bring a civil action to recover damages resulting from a seller's failure to provide notice as required under this section. The amount of damages that may be recovered in a civil action are the actual damages or \$1,500, whichever is greater. (41-1a-712 UCA)

SAFETY INSPECTION & EMISSION TESTS

A licensed dealer may not issue a temporary permit on a sold motor vehicle unless:

- (1) the motor vehicle has received and passed the safety inspection required by 41-1a-205 UCA; and
- (2) if the customer is located in a county that requires an emission inspection the motor vehicle received and passed the emission test required by 41-6-163.6 UCA (41-3-303).

QUESTIONS & ANSWERS

- Q. If a dealer uses an independent licensed Safety/Emissions Inspector and it is later discovered that the vehicle should not have passed inspection, is the dealer required to take the vehicle back?

- A. No. The dealer relied on the licensed Inspector to do a proper inspection. Department of Public Safety (801) 965-4889 should be notified to take action against the station.

- Q. If a dealer obtains a safety inspection and emission test in his name, how long is it valid?

- A. Six months.

- Q. If a motor vehicle fails the emission test can a dealer get a waiver and sell the car?
- A. No, if the dealer intends to retail the car and issue a temporary permit he must have the vehicle repaired and the vehicle must pass both the safety inspection and emission tests.
- Q. Can a dealer sell a motor vehicle "As-Is" without having it safety inspected and emission tested?
- A. Yes, but the dealer cannot issue a temporary permit.
- Q. If a dealer is located in a non emissions county and the customer lives in an emissions county, does the dealer need to have the vehicle emission tested prior to issuing a permit?
- A. No. The customer should complete a TC-820. It is the customer's responsibility to have the vehicle emission tested and submit proof to their local health department.
- Q. Can a dealer retail a motor vehicle, not issue a temporary permit, require the customer to obtain the safety and emission tests and then issue a temporary permit?
- A. No, if he retails the vehicle and issues a temporary permit, he is responsible for the safety and emission tests.
- Q. Does a dealer have to give the customer a copy of the inspection certificate?
- A. Yes (41-3-303 UCA).

BUSINESS RECORDS

Everyone who holds an MVED business license is required to keep at their principal place of business the following records, which may be inspected by peace officers and employees of MVED:

- ❖ A record of every vehicle the licensee buys, sells, exchanges, or accepts for sale or exchange,
- ❖ A record of every used part or accessory bought or otherwise acquired,
- ❖ A record of every vehicle acquired and dismantled,
- ❖ All buyers' orders, contracts, odometer statements, temporary permit records, financing records, and all other documents related to the purchase, sale, leasing, or consignment of motor vehicles, and,
- ❖ A record of the name and address of every person to whom a motor vehicle, motor vehicle body, chassis, or motor vehicle engine is sold or otherwise disposed of and a description of the vehicle by make, model, year, and identification number.

REGISTRATION AND TITLE DELIVERY

Once a dealer has sold a vehicle to a Utah resident and has issued a temporary permit, he has 45 days to obtain the registration and license plates from Motor Vehicle Division and to deliver these to the new owner of the vehicle. If a dealer sells a vehicle to another dealer he has 21 days to deliver a negotiable title to the other dealer. If a dealer sells a vehicle to an individual and does not issue a temporary permit, he has 48 hours to deliver a negotiable title to the individual (41-3-301).

Telephone calls and correspondence regarding registration and titles should be directed to:

Division of Motor Vehicles
210 N 1950 W
Salt Lake City, Utah 84134
Phone: (801) 297-7780

QUESTIONS AND ANSWERS

Q. Is there a limit to what a dealer can charge as a "documentation fee"?

A. No. However, if a dealer has been granted the privilege of issuing temporary permits under Sections 41-3-301 or 41-3-302 UCA, he must segregate and separately identify the fees required by the State as state-mandated fees. Documentation fees must be listed separately and not identified as state-mandated fees.

Q. What does a dealer need to do if they are going to charge documentation fees?

A. The dealer must prominently display a sign in the room where purchasers, consumers or lessees can easily see and read it. The sign must read as follows:

The (dealer documentary fee) () as set forth in your contract represents costs and profit to the dealer for preparing and processing documents and other services related to the sale or lease of your vehicle. These fees are not set or state mandated by state statute or rule.
(R877-23V-14)

Q. Do I have to call documentation fees "Dealer documentary fee"?

A. No. The wording can be selected by the dealer to describe the fee charged but must be the same wording as is used in the dealer's contract of sale or lease agreement.

Q. Can I include the temporary permit fee in the state-mandated fees?

A. No. There is no state requirement that a temporary permit be issued to a customer. The temporary permit fee should be entered on line 28 of the motor vehicle contract of sale. If a permit is issued, the dealership must obtain the title and registration for the customer.

- Q. When purchasing a vehicle from a motor vehicle auction, who signs the title?
- A. Only the consignor and the purchaser. The motor vehicle auction does not sign the title, unless acting as consignor's agent, or purchasing or selling the vehicle in its own name.
- Q. Can a dealer obtain his customer's license plates and refuse to give them to the customer if the customer still owes the dealer part of the down payment?
- A. No. Plates cannot be held for any reason (41-3-210 UCA).

MONTHLY DEALER REPORT OF SALE

Dealers must file a Monthly Report of Sale for any vehicle sold wholesale, nonresident sale, or retail sale in which a temporary permit was not issued. The form for this report can be obtained from the Tax Commission Warehouse (form #TC-928) by calling (801) 297-3878 and should be sent to the department within 10 days after the end of the reporting month (41-3-301 UCA). The form can also be obtained online at www.tax.utah.gov

QUESTIONS AND ANSWERS

- Q. If I sell a vehicle "As-Is" and do not issue a temporary permit, do I have to report that sale?
- A. Yes, on your monthly report of sale. In addition you must collect the sales tax from your customer and complete the dealer's report of sale on an application for title for your customer to show the motor vehicle division that the sale was from a dealer and that the sales tax has been paid.
- Q. If I sell a vehicle, permit it, and do the title and registration work for the customer, how do I report that sale?
- A. By completing the dealer's report of sale on the application for title.
- Q. Can I combine months on my monthly report of sale?
- A. No. Each month must be submitted on a separate form. The forms must be submitted by the 10th of the following month.
- Q. I sold a vehicle that was less than 10 years old to the crusher do I have to list the odometer reading?
- A. Yes. Federal and State laws require that the odometer reading be reported on sales of vehicles less than 10 years old.

TEMPORARY PERMITS

Temporary permits, which licensed dealers may obtain at any time from MVED, are valid for 45 days from the date they are issued by the dealer. Temporary permits may be purchased at our office, via the mail or online at www.mved.utah.gov. Temporary permits will be consecutively numbered and should be issued in sequence. A pad of 25 permits is \$303.00, a TC-756 must be completed and submitted with payment to purchase permits at our office or via the mail.

Expiration dates on temporary permits should be filled in on the original using a rubber stamp or marking pen in letters and numbers at least 3/4 inches high. The new style of permits also require that the expiration date be circled in the two areas provided at each end of the window portion. The original should be displayed in the rear license plate area or rear window of the vehicle, unless the vehicle is a convertible or if the vehicle has a tint greater than 70% in the back window than the permit must be placed in the license plate area. The permit must be legible from a distance of 30 feet from the rear of the vehicle.

The duplicate permit stub, together with application materials for registration and title, should be filled out and sent to the Tax Commission Motor Vehicle Division in time for the customer to receive the new title, registration and plates before the temporary permit expires.

If a temporary permit is filled out incorrectly, the sale of the vehicle is rescinded or for some other reason the permit is unusable, the dealer should return it to MVED, together with the stub and it will not be considered issued. If the permit is placed on a vehicle and the sale has not been rescinded, the permit will be considered issued and the dealer is liable for the registration fee for the vehicle together with any applicable penalties.

The dealer must keep a written record of every temporary permit they receive. This record should contain the name and address of each person to whom a permit is issued, date of issue, a description of the vehicle (including make, model, year, identification number, and if necessary the gross laden weight), and the license number. The form for the temporary permit record TC-452 is available at the Tax Commission Warehouse (801) 297-3878 or online at www.tax.utah.gov

MVED has instruction sheets available explaining when and what fees are due for voided permits, extensions, and non-resident permits. Please contact MVED at (801) 297-2600 to request an instruction sheet.

QUESTIONS AND ANSWERS

Q. I still have some of the old 30 day temporary permit stock can they still be used?

A. Yes but they can only be issued for 30 days. If they are issued for 45 days then the customer could have their vehicle impounded and the dealer will be charged a penalty at the DMV. The dealer can also be fined an administrative fine for improperly issuing 30 day permits for 45 days.

Q. Does the 45-day limit include the day the permit was issued?

A. Yes.

Q. Does the 45-day limit include weekends and holidays?

A. Yes.

Q. Can I buy permits from another dealer?

A. No.

Q. Can I borrow permits from another dealer if I run out over a weekend or holiday?

A. No.

Q. If I lose a permit stub after issuing a permit what do I do when I turn the paperwork into DMV?

A. Write the information that should be on the permit stub on a plain piece of paper and turn it in to the DMV like you would the permit stub. You will be charged a penalty equal to the registration fee.

Q. Does a dealer have to issue a temporary permit even if the purchaser wishes to take care of his own registration?

A. No. In this case the dealer should deliver title for the vehicle to the purchaser within 48 hours and should also give the customer a completed dealer report of sale as proof that sales tax has been collected (41-3-301 UCA).

Q. What if the customer loses or damages his copy of the temporary permit?

A. The dealer will need to get the vehicle registered as soon as possible. If the dealer is unable to title and license the vehicle please contact MVED for further instructions at 801-297-2600.

Q. Is there a limit to how long the dealer can keep temporary permits that have not been issued?

A. No. MVED recently changed the permit numbers to add an additional alpha character. This will prevent permit numbers from repeating.

Q. Can I use a temporary, extension, or non-resident permit to carry a load?

A. Yes, if the permit is made out for the proper gross vehicle weight and the correct fee is submitted to clear the permit stub. The fee is based on the amount of gross weight for which the vehicle is registered.

Q. If my customer's permit has expired and I have not been able to get his plates yet, can I change the expiration date on the permit?

A. No. You will have to request an extension permit.

EXTENSION PERMITS

If a temporary permit has expired and the dealer has been unable to register the vehicle, the dealer may request an extension permit for the customer by calling MVED. If the request is approved, the dealer will be given an approval number, which must be recorded in the dealer's record of temporary permits, and on the permit and stub in the space provided for the license number. The space provided on the permit and stub for the dealer name must be filled out with the words "Utah State Tax Commission" and the dealer's license number. The remainder of the permit and stub will be filled out as usual and the stub should be sent to the department within 30 days. The dealer should keep the stub from the first permit to send in with the registration application.

Under no circumstances will MVED approve any request for an extension permit if it is found that the dealer has requested extensions for more than 2 percent of his temporary permits during the last three months.

QUESTIONS AND ANSWERS

Q. Can I get an extension permit for a nonresident sale?

A. Yes. If your extension percentage is at 2% or less.

Q. If I need to issue an extension permit at night, can I just issue one and get approval when MVED opens the next day?

A. No. All extension permits must be approved by MVED before they are issued. A dealer who violates this rule may have his right to issue temporary permits suspended or can be fined (41-3-304 UCA and R877-23V-5).

Q. If my customer needs an extension permit and I am over my 2 percent limit, what can he do to keep driving his vehicle legally?

A. The customer can come in and file a complaint against the dealer for failure to deliver title. MVED will then give the customer a temporary permit and contact the dealer about the problem.

NONRESIDENT PERMITS

If a nonresident buys a motor vehicle in Utah for registration in another state, the dealer may issue a temporary permit. The dealer must file with MVED:

- ❖ the stub portion of the temporary permit, and

- ❖ the required fee.

If MVED does not receive these materials within 45 days of the issue date, the dealer will also have to pay a penalty equal to the nonresident permit fee.

QUESTIONS AND ANSWERS

- Q. Why is there a registration fee for a nonresident permit?
- A. Dealers are legally responsible for the registration fee of each vehicle for which a temporary permit is issued (41-3-302 UCA).
- Q. How does the dealer obtain a sales and use tax exemption affidavit?
- A. Sales and use tax exemption affidavit forms (TC-721A) are available to dealers through the State tax Commission Warehouse by calling (801)297-3878 or online at www.tax.utah.gov

LOADED DEMONSTRATION PERMITS

A dealer may apply for a permit which allows him to use a dealer plate to demonstrate an unregistered loaded vehicle to a prospective purchaser. The information requested on the application form includes a description of the vehicle, trip, and type of demonstration, and the names of the dealership, prospective purchaser and driver. The permit should be carried in the vehicle during the demonstration trip and should be returned to the department properly completed and signed within 10 days after the trip is over.

QUESTIONS AND ANSWERS

- Q. Is there a fee for a loaded demonstration permit?
- A. No.

IN -TRANSIT PERMITS

An in-transit permit allows the use of Utah highways for a period of 96 hours for transporting an unregistered vehicle. Requirements for an in-transit permit include the fee, proof that the applicant is the vehicle owner or owner's authorized representative, and, if the applicant is a Utah resident, proof of insurance on the vehicle (41-3-305 UCA).

In-transit permits cannot be issued for loaded commercial vehicles over 12,000 pounds gross laden weight. When several vehicles are being transported at once, an in-transit permit should be obtained for each vehicle touching the ground.

QUESTIONS AND ANSWERS

- Q. Where can I get an in-transit permit?

A. In-transit permits are available at Motor Vehicle Division branch offices. Utah residents can purchase a 15 day permit in order to drive the vehicle to obtain the safety inspection and emissions. Some cities and auctions issue 96 hour permits however, they are only for vehicles they have sold.

Q. Can I get two in-transit permits at once so that I have 8 days to get the vehicle to my destination?

A. No. There is a limit of one in-transit permit within a 12 month time frame.

Q. Can I get an in-transit permit and have it post-dated to take effect in a few days?

A. No. All permits must be dated from the day they are issued.

Q. Can I use an in-transit permit to carry a load?

A. No.

Q. Where can I get a permit for an oversize or overweight vehicle?

A. Contact the Department of Transportation at (801) 965-4000 or any Port of Entry.

DISMANTLING PERMITS

Before dismantling a motor vehicle, all persons must submit to Department of Motor Vehicle the vehicle's certificate of title along with an application for a dismantling permit. This permit entitles the holder to dismantle the vehicle or to transport it to a licensed dismantler, crusher, or salvage dealer.

QUESTIONS AND ANSWERS:

Q. Do I need a dismantling permit if I have a license from MVED which allows me to dismantle cars?

A. Yes. Every vehicle dismantled for parts or for any other reason must have a dismantling permit (41-1a-1010 UCA).

DEALER PLATES

Dealer plates may be used for transporting on the public highways unlicensed vehicles owned by or consigned to a dealer.

QUESTIONS AND ANSWERS:

Q. Can a dealership put a dealer plate on a vehicle it has sold?

A. No (41-3-501 UCA).

Q. Can a dealership put a dealer plate on a vehicle it is leasing?

A. No (41-3-501 UCA).

Q. Can dealer plates be used on loaded vehicles?

A. Yes, if the dealer gets a loaded demonstration permit as explained above (41-3-501).

Q. What can a dealer plate be used for?

A. There is no restriction placed on how a dealer can use dealer plates as long as the vehicle is owned by or consigned to the dealership, it is not being leased or rented, and it is not loaded with a gross weight of over 12,000 pounds (41-3-501 UCA).

Q. Can I use a dealer plate to drive a vehicle back to my dealership after purchasing it at an out-of-state auction?

A. Yes, as long as your dealership owns the vehicle. You are, however, subject to the registration laws of the states you travel through, and some states may not recognize Utah dealer plates.

Q. Can a dealer give a dealer plate to a relative for use on his or her vehicle?

A. No. Dealer plates can be used only by dealers on vehicles owned by or consigned to the dealership (41-3-501).

Q. How should I display a dealer plate?

A. All special plates should be securely fastened in a horizontal position to the rear of the vehicle where clearly visible and legible (41-3-504 UCA).

Q. Can I display a dealer plate on the dashboard or in a side window?

A. No (41-3-504 UCA).

Q. When do dealer plates expire?

A. Dealer plates, like all other special plates, expire at midnight each June 30 or whenever the dealer's license is suspended or revoked. They will be renewed when the dealer submits an application and fee (41-3-506 UCA).

Q. Is there a grace period after the expiration of a dealer plate?

A. No.

Q. How many dealer plates can a dealership have?

A. As many as state law allows.

Q. How can I figure out how many dealer plates a dealership can have?

A. A dealership can have two dealer plates as long as there has been three (3) vehicles sold in the preceding 12-month time period. In addition, for every 25 vehicles sold thereafter, the dealership is eligible for one more dealer plate (41-3-503 UCA).

Q. What happens if my dealership does not sell at least three (3) vehicles in a 12-month period?

A. The dealership cannot renew their plates or be issued any more dealer plates.

Q. What if a dealer plate is lost or stolen?

A. Lost or stolen plates should be reported immediately with a written notice that must be mailed or faxed to MVED. The local police department or sheriff's office should also be notified. If the plate was stolen please also list your local police agencies case number in your written notification(41-3-507 UCA).

Q. Can a lost or stolen plate be replaced?

A. No. A lost or stolen plate can only be replaced after it has expired on June 30th (R877-23V-16).

Q. Is a dealer plate that has been confiscated by a peace officer returned to the dealership?

A. No, if it has been determined that the dealer plate was being used illegally, the plate will not be returned (41-3-508 (4)).

DISMANTLER PLATES

These plates allow a dismantler to operate any motor vehicle on the highways solely for transporting the vehicle from the place where it is legally acquired to the dismantler's place of business or to a crusher.

QUESTIONS AND ANSWERS:

Q. Can I drive a vehicle on a dismantler plate?

A. Yes, but only while transporting a vehicle from the point of purchase to the dismantling yard or crusher (41-3-501 UCA).

Q. If the registration on a vehicle I am taking to my yard is still good, do I still have to use a

dismantler plate?

A. Yes, once a vehicle is sold, its registration is no longer valid.

Q. I keep forgetting to take off my dismantler plate after I drop a car off at the shredder. Can't I just put the plate on the back of my wrecker so I don't lose any more of them?

A. No, the plate must be attached to the vehicle (41-3-501 UCA).

Q. How many dismantler plates may I have?

A. Dismantlers, transporters, and manufacturers may have as many special plates as state law allows, or as many as the MVED determines is required for them to conduct their business.

Q. What if a dismantler plate is lost or stolen?

A. Lost or stolen plates should be reported immediately with a written notice that must be mailed or faxed to MVED. The local police department or sheriff's office should also be notified. If the plate was stolen please also list your local police agencies case number in your written notification (41-3-507 UCA).

MANUFACTURER PLATES

These plates may be used to transport or demonstrate manufactured or remanufactured vehicles to a dealer or prospective dealer.

QUESTIONS AND ANSWERS:

Q. What if a manufacturer plate is lost or stolen?

A. Lost or stolen plates should be reported immediately with a written notice that must be mailed or faxed to MVED. The local police department or sheriff's office should also be notified. If the plate was stolen please also list your local police agencies case number in your written notification (41-3-507 UCA).

TRANSPORTER PLATES

A transporter may use their transporter plates to:

- ❖ transport a repossessed vehicle from the point of repossession to its financial institution or to the place of storage,
- ❖ go to and from a detail or repair shop for the purpose of detailing or repairing the vehicle;
or

- ❖ to a deliver point in, out , or through the state.

QUESTIONS AND ANSWERS:

Q. What if a transporter plate is lost or stolen?

- A. Lost or stolen plates should be reported immediately with a written notice that must be mailed or faxed to MVED. The local police department or sheriff's office should also be notified. If the plate was stolen please also list your local police agencies case number in your written notification (41-3-507 UCA).

ADVERTISING

Following is a summary of Utah law and administrative rules regulating automobile advertising in Utah. To review the actual statute and rule, refer to 41-3-210 UCA and R877-23V-7.

- Administrative penalties for violations are: \$250 for the first offense; \$1,000 for the second offense; \$5,000 for the third and subsequent offenses within any twelve month period.
- ❖ (c)(i)(A) Price. When the price or payment of a vehicle is quoted, the vehicle shall be clearly identified as to make, year, model and if new or used. Except as provided in Subsection (c)(i)(B), the advertised price must include charges that the customer must pay for the vehicle, including freight or destination charges, dealer preparation, and dealer handling.
(B) The following fees are not required to be included in the advertised price that the customer must pay for the vehicle: dealer document fees; if optional, undercoating or rustproofing fees; and taxes or fees required by the state or a county, including sales tax, titling and registration fees, safety and emission fees, and waste tire recycling fees.
(iii) When "list", "sticker", or words of similar import are used in an advertisement, they may refer only to the manufacturer's suggested retail price. If a supplementary price sticker is used, the advertised price must include all items listed on the supplementary sticker.
- ❖ (d) Savings and Discount Claims. Because the intrinsic value of a used vehicle is difficult to establish, specific claims of savings may not be used in an advertisement. This includes statements such as, "Was priced at \$....., now priced at \$....."
 - (i) The word "wholesale" may not be used in retail automobile advertising.
- ❖ (n) Free. "Free" may be used in advertising only when the advertiser is offering that is not conditional on the purchase of any property or service.
- ❖ (r) Disclosure of Material Facts. Disclosures of material facts that are contained in advertisements and that involve types of vehicles and transactions shall be made in a clear and conspicuous manner.
 - (i) Fine print, and mouse print are not acceptable methods of disclosing material facts.
 - (ii) The disclosure must be made in a typeface and point size comparable to the smallest typeface and point size of the text used throughout the body of the advertisement.
- ❖ (s) Lease. When an advertisement relates to a lease, the advertisement must make it readily apparent that the transaction advertised is a lease.
 - (i) The word "lease" must appear in a prominent position in the advertisement in a typeface and point size comparable to the largest text used to directly advertise the vehicle.
 - (ii) Statements that do not use the term "lease" do not constitute adequate disclosure of a lease.
- ❖ (u) Invoice or Cost. The terms "invoice" or "factory invoice" may be used as long as the dealer is

- willing to show the factory invoice to the prospective buyer. The term "cost" may not be used.
- ❖ (x) Special Status of Dealership. An automotive advertisement may not falsely imply that the dealer has a special sponsorship, approval status, affiliation, or connection with the manufacturer that is greater or more direct than any other like dealer.
 - ❖ (y) Price Equaling. An advertisement that expresses a policy of matching or bettering competitor's prices shall fully disclose any conditions that apply and specify the evidence a consumer must present to take advantage of the offer. The evidence requirement may not place an unreasonable burden on the consumer however, for example requiring the consumer to bring a written offer made to that consumer by an authorized representative of a dealership on a substantially similar vehicle would be considered reasonable.
 - ❖ (bb) An advertisement must disclose a salvage or branded title as prominently as the description of the advertised vehicle.
 - ❖ (41-3-210) Publish, display, or circulate any advertising without identifying the seller as the licensee by including in the advertisement the full name under which the licensee is licensed or the licensee's number assigned by the division.

QUESTIONS AND ANSWERS

Q. Are there rules that regulate a dealership's advertising?

A. See a complete listing of rules and laws under R877-23-7V & 41-3-210 UCA.

ODOMETERS

Every vehicle subject to registration in Utah must be equipped with a properly functioning odometer. It is illegal to operate, or to cause to be operated, a motor vehicle in which the odometer is known to be disconnected or nonfunctional, except while taking the vehicle to a repair shop.

It is a class A misdemeanor to install on any motor vehicle a device which causes the odometer to register mileage other than the true mileage, or to knowingly sell any vehicle on which the odometer has been altered in this manner.

It is a third-degree felony to issue a false odometer statement, to disconnect, turn back, or reset the odometer of any motor vehicle, or to knowingly sell a vehicle on which the odometer has been altered in this manner.

ODOMETER MILEAGE DISCLOSURE STATEMENT

At the time of the sale or transfer of any motor vehicle, the transferor is required to give the transferee a signed odometer mileage disclosure statement. Failure to provide such a statement, or violation of any rule concerning such a statement, is a Class B misdemeanor. The transferee should acknowledge receipt of the statement by signing it and both the transferee and the transferor should keep a legible copy. The original odometer statement must be surrendered to the Motor Vehicle Division when the vehicle is titled and registered. Information contained in the odometer mileage disclosure statement includes the following:

- ❖ The odometer reading at the time of transfer,
- ❖ The date of transfer,
- ❖ The transferor's name and address or the transferor's authorized agent's name and address if the transferor is a company,
- ❖ The transferee's name and address or the transferee's authorized agents name and address if the transferee is a company,
- ❖ The make, model, year, body type, and identification number of the vehicle, and,
- ❖ An affirmation that the odometer mileage shown on the odometer statement is either the actual mileage, exceeds the mechanical limits of the odometer, or is not the actual mileage

ODOMETER REPLACEMENT OR REPAIR

If the odometer needs to be repaired or replaced, the disclosure statement should read:

- ❖ That the odometer was repaired or replaced and that the present reading is identical to the reading before the repair, or,
- ❖ That the odometer was repaired or replaced, and because it was incapable of registering the same mileage as before, it was reset to zero.

If the odometer is repaired or replaced and then reset to zero, the disclosure statement must specify the mileage on the vehicle before the reading was altered. A notice in writing, on a form available from MVED, specifying both the date the odometer was repaired or replaced and the mileage on the vehicle before this occurred, must be permanently affixed to the left door frame of the vehicle.

DEALER RETENTION OF DISCLOSURE STATEMENTS

Every dealer should keep every odometer mileage disclosure statement he receives and a legible copy of every statement he issues. These statements should be kept on file at the dealer's principal place of business for five years and will be subject to inspection by any peace officer during business hours.

MILEAGE RECORDED ON TITLE

The mileage of a motor vehicle must be included on the vehicle's title and on the application for transfer of ownership, and will be printed on the new title certificate.

QUESTIONS AND ANSWERS:

Q. Are there any exceptions to the odometer mileage disclosure statement rule?

- A. Odometer mileage disclosure statements do not need to be given for vehicles having a gross vehicle weight rating of 16,000 pounds or more, vehicles 10 years old or older, or vehicles sold directly by the manufacturer to any agency of the United States Government (41-1a-902).
- Q. Are there any motor vehicles which are not required to have a working odometer?
- A. Only vehicles which are not subject to registration and trailers (41-1a-901 UCA).
- Q. Can I check more than one box on the disclosure statement form?
- A. No.
- Q. Should I sign, or ask my customer to sign, a blank disclosure statement with the assurance that it will be filled out later?
- A. No. All signers are responsible for the certification of all information on the disclosure statement.
- Q. Is it illegal for a dealer to give a prospective purchaser the name of an automobile's previous owner?
- A. Yes. All motor vehicle records are protected by law.
- Q. How can I tell if the odometer on a used car has been tampered with?
- A. You may:
1. Visually inspect the car to see if its condition matches the miles shown on the odometer. Check to see which parts have been replaced. Unscrupulous individuals sometimes use paint to make old parts look newer.
 2. Check the inspection certificates. These will have the date of inspection, mileage at the time of inspection, place of inspection, and the inspector recorded on them.
 3. Look for lube or maintenance stickers on the left door frame, in the glove compartment, under the hood, in the trunk, etc. These often contain mileage information.
 4. Check with the manufacturer to see what work was done under the warranty and what the mileage was at the time the work was done.
 5. Check to see if the numbers on the odometer gauge are aligned straight across. If they are crooked, the odometer may have been tampered with.
 6. If the car has a General Motors mechanical odometer, the spaces between the numbers should be black. If they are silver or white, the odometer has been tampered with.

7. If the car has an electronic odometer, it has been designed to show an asterisk or some other sign if it has been tampered with. Information regarding this will be contained in the owner's manual.

Q. What recourse do I have if my odometer has been tampered with?

A. MVED will investigate to determine whether or not an odometer law has been violated. Your attorney can advise you on possible civil remedies.

SALES TAX

Because of the complexity and dynamic nature of sales tax issues, MVED does not answer sales tax questions. For answers to these questions, contact the Sales Tax Division of the Utah State Tax Commission at (801) 297-2200. The Sales Tax Division also has Publication 5 available online at www.tax.utah.gov which answers most questions about sales tax.

CONSIGNMENT SALES ACT

The law defines consignors and consignees rights and requires consignees to make full disclosure when a consigned vehicle is sold. The law also requires a written consignment agreement be executed between the consignor and consignee before the consigned vehicle can be driven. This agreement must indicate the party responsible for damage to or misuse of the vehicle. It must also indicate the permitted uses a consignee may make of a consigned vehicle. The law also requires a Consignment Charges Agreement be completed and attached to the written consignment agreement. This is form TC-120 and is available from the Tax Commission Warehouse (801) 297-3878 or online at www.tax.utah.gov (41-3-801 through 41-3-803 UCA).

Q. Can a consignor take his vehicle back any time he wants, even if he agreed in writing to leave the vehicle on the lot for 30 days?

A. Yes. As long as the consignor has notified the consignee in writing that he is going to take possession of the vehicle; and he has paid all outstanding charges owing to the consignee that have been agreed to on form TC-120.

Q. As a dealer, can I still use my existing consignment agreements?

A. Yes. However, a completed form TC-120 must be attached.

Q. When I sell a consigned vehicle, do I have to tell the consignor how much I sold it for?

A. Yes. You must disclose, in writing, the exact selling price of the consigned vehicle if you and the consignor agreed in writing that he will receive a percentage of the selling price, or you renegotiate in writing the selling price of the vehicle.

Q. How long do I have to pay the consignor after I sell the vehicle?

- A. You must pay the consignor within 21 calendar days of the sale or within 15 calendar days of receiving payment for the vehicle, whichever date is earlier, unless the sale is rescinded.
- Q. If I have to rescind the sale, do I have to notify the consignor?
- A. Yes. You must notify the consignor in writing within five calendar days.
- Q. Can I drive the consigned vehicle on the consignor's license plates if they are still current?
- A. No. You must remove the consignor's license plates and/or any temporary permits on the vehicle. It can only be operated on your dealer plates.
- Q. Who is responsible for insurance and damage to the vehicle while it is on consignment?
- A. You are required to have liability insurance on your dealer plates. The written consignment agreement must specify who is responsible for damage or misuse to the consigned vehicle.

MOTOR VEHICLE BUYBACK DISCLOSURE ACT

Certain new vehicles which are replaced or repurchased by a manufacturer, due to an alleged nonconformity, are required to be branded. The law also requires certain disclosure forms be used prior to the subsequent sale of one of these vehicles. For details about the law, see sections 41-3-406 through 41-3-414 UCA or call the Attorney General's office at 801-538-1015.

APPENDIX A - MVED FORMS

- TC-137 Temporary Permit**
Temporary Permits are issued to customers as the dealership registers and obtains plates for the vehicle purchased and are only valid for 45 days. Note: Permits purchased prior to 7/1/06 are only valid for 30 days.
- TC-142 Application for Special Plates and Decals**
This form is used to apply for plates or decals.
- TC-301 Bonded Motor Vehicle Business Application**
This form is used to apply for a dealer, motorcycle or small trailer or body shop license.
- TC-303 Motor Vehicle Salesperson Application**
To apply for a salesperson license, this form is used. In addition to the TC-303, a fingerprint card and waiver (TC-465) need to be submitted.
- TC-305 Motor Vehicle Salvage Buyer Application**
This form is used to apply for a salvage buyer's license. Out of state businesses must also complete a TC-759.
- TC-450 Bond of Motor Vehicle Dealer, Crusher or Body Shop**
This form is completed by the Bonding company for a bond for a Motor Vehicle Dealer, Crusher or Body Shop.
- TC-451 Original Complaint Report**
This form is used to file a complaint with Motor Vehicle Enforcement.
- TC-452 Temporary Permit Record**
Every dealer who issues temporary permits to customers, needs to keep a written record. The TC-452 may be used to keep this record.
- TC-465 Waiver**
This form needs to be submitted by individuals applying for a salesperson license as well as all owners in the company in order to be a no-fee salesperson.
- TC-656D Application for Title and Registration (Dealer Application)**
The dealer report of sale portion of this form must be completed by the dealer. This form must still be given to a customer even when a car is sold to them as is and they are doing their own titling paperwork.
- TC-721A Sales and Use Tax Exemption Affidavit**
This form is used to exempt non residents from paying Utah sales tax on vehicles that will not be registered in Utah. This form replaces TC-583.
- TC-756 Application for Motor Vehicle Temporary Permits**
This form is used to order Motor Vehicle Temporary Permits at our office or via the mail.

- TC-758 Application for Updated or Additional Motor Vehicle Business License**
This form is used to apply for an address change, name change, off site license or additional place of business.
- TC-759 Application for Motor Vehicle Business License**
This form is used to apply for a manufacture, dismantler, distributor, transporter or a crusher license. This form is also used by out of state businesses applying for a salvage buyers license in Utah.
- TC-760 Application for Representative License**
Application used by a factory or distributor to license representatives that will travel to Utah.
- TC-814 Notice of Salvage Certificate or Branded Title**
If the seller is a dealer licensed in Utah, this notice must be prominently displayed in the lower passenger-side corner of the windshield when the vehicle is displayed or offered for sale. This form must be given to the purchaser and a copy of this form must be given to the lienholder, if any. If the seller is a dealer, the seller must keep a copy of this form for a period of three years from the date of sale.
- TC-928 Monthly Report of Sale by Utah Licensed and Bonded Dealer**
If vehicles are sold to another dealer, a customer where no temporary permit was issued, or to a non-resident of Utah, these sales need to be reported on this form and returned to MVED. If there were no sales during the month, a TC-928 needs to be turned in with NONE written on the form. Be sure to complete all required fields.

Commonly Used Websites and Phone Numbers

Utah State Tax Commission
Motor Vehicle Enforcement Division
 210 N 1950 W
 SLC UT 84134
 (801) 297-2600
 (801) 297-2699 Fax
www.mved.utah.gov

Utah State Tax Commission
Warehouse
 (801) 297-3878

Utah State Tax Commission
Department Of Motor Vehicles
 (801) 297-7780 or
 1-800-368-8824
www.dmv.utah.gov

Utah State Tax Commission
Sales Tax Division
 (801) 297-2200
 or 1-800-662-4335
www.tax.utah.gov

Dealer Training Classes are offered by:

MATC
(801) 492-2950
www.mved.org

IADAU
(801) 566-3802 or 1-800-324-7009

UADA
(801) 484-8845

Real Value Financial
(801) 298-3811 or 1-877-450-9100

Sonja Jorgensen
(801) 601-1440